IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA, CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL No.2181 of 2004 & WRIT PETITION No.21161 of 2004

W.A.No.2181 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 19/11/2004 in W.P.No.21161 of 2004 on the file of the High Court.)

Between:

M/s.Karan Woosin Limited,

A company incorporated under the Companies Act, 1956,
having its registered office at S.No.321, Kallakal, Gajwel Tq., Medak District, rep., by its Manager, Mr.N.C.Reddy

..... APPELLANT

AND

1 The Union of India, Ministry of Labour, New Delhi rep., by its

Secretary.

2 The Central Provident Fund Commissioner, Head Office,

Employees Provident Fund Organisation,
14, Bikaji Cama Place, New Delhi-110 066

3 The Assistant Provident Commissioner,
(Authority under Section 14B of the Provident Fund
Act, 1952) Sub-Accounts Office, Susheeram Complex,

Patancheru-502 319.

.....RESPONDENTS

Counsel for the Appellant :Sri P.BALAJI VARMA

Counsel for the Respondent No.1: Sri A.RAJASHEKAR REDDY

Standing Counsel for Central Govt.

Counsel for Respondents No.2 & 3: Sri R.N.Reddy,

Standing Counsel for Provident Fund Commissioner.

WRIT PETITION No.21161 of 2004

Between:

M/s.Karan Woosin Limited,

A company incorporated under the Companies Act, 1956,
having its registered office at S.No.321, Kallakal, Gajwel Tq., Medak District, rep., by its Manager, Mr.N.C.Reddy

..... PETITIONER

AND

1 The Union of India, Ministry of Labour, New Delhi rep., by its

Secretary.

2 The Central Provident Fund Commissioner, Head Office,

Employees Provident Fund Organisation,
14, Bikaji Cama Place, New Delhi-110 066

3 The Assistant Provident Commissioner,
(Authority under Section 14B of the Provident Fund
Act, 1952) Sub-Accounts Office, Susheeram Complex,

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.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus Declaring that the 3rd respondent is having discretion in levying damages within the limits provided under
para 32 A of the EPF Scheme and consequently set aside the order of the 3rd respondent dated 29-9-2004 pursuant to the show cause Notice-cum-Levy order No. AP/32431/PD/SAO/PTC/2004176 dated 14-5-2004.
(2) Declaring that declare Para 32A of the EPF Scheme as contrary to Section 14-B of the EPF Act, Hence void and unenforceable, violative of Principles of natural justice and Article 14 of Constitution of India consequently set a side the order of the 3rd respondent dated 29-9-2004 pursuant to the show cause Notice-cum-Levy order No. AP/32431/PD/SAO/PTC/2004176 dated 14-5-2004 and also (3) Directing the 1st respondent to forthwith appoint presiding officer to the provident Fund Appellant Tribunal Constituted under 7-D of the Provident Fund Act.

Counsel for the Petitioner :Sri P.BALAJI VARMA

Counsel for the Respondent No.1: Sri A.RAJASHEKAR REDDY

Standing Counsel for Central Govt.

Counsel for Respondents No.2 & 3: Sri R.N.Reddy,

Standing Counsel for Provident Fund Commissioner.

The Court made the following common judgment :

COMMON JUDGMENT: (Per Hon'ble the Chief Justice)

With the consent of the parties, we have taken up writ appeal as well as writ petition for consideration.

Order dated 29th September, 2004 passed by the Assistant Provident Fund Commissioner, Sub-Accounts Office, Patancheru, is under challenge by the writ petitioner – appellant on numerous grounds in the writ petition. Writ Petition was filed since there was no appellate authority functioning under the provisions of Employees Provident Fund and Miscellaneous Provisions Act, 1952. Learned single Judge passed the interim order on 19th November, 2004 granting stay subject to writ petitioner – appellant depositing 50% of the amount within four weeks and appeal is against the said interim order. We are informed by the learned standing counsel for respondents that appellate authority has now assumed charge on

24th November, 2004.

In the circumstances aforementioned, we proceed to set aside the impugned order and dismiss the writ petition with liberty reserved to the writ petitioner – appellant to challenge the order dated 29th September, 2000 passed by the Assistant Provident Fund Commissioner before the appellate authority constituted under the provisions of the said Act, within a period of four weeks from today, and also to approach the said authority for appropriate interim orders. We further direct that in the event of appeal being filed within a period of four weeks as stipulated above, same will be duly entertained and decided on its merits, without raising the question of limitation

and till the appeal and application seeking interim orders are taken up for consideration, recovery proceedings shall not be proceeded against the writ petitioner – appellant.

Writ Appeal is accordingly allowed.

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DEVINDER GUPTA, C.J.

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M.NARAYANA REDDY, J

30-12-2004

bsc

.....REGISTRAR

To

1 The Secretary, Ministry of Labour, Union of India, New Delhi.

2 The Central Provident Fund Commissioner, Head Office,

Employees Provident Fund Organisation,
14, Bikaji Cama Place, New Delhi-110 066

3 The Assistant Provident Commissioner,
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